APPEAL NO. 020719
FILED MAY 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 6, 2002. With regard to the issues before him, the hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first, second, third, and fourth quarters and that the claimant's "recurrent right carpal tunnel syndrome and recurrent [right] cubital tunnel syndrom after April 16, 1998, resulted from the original compensable injury on _____." The last issue has not been appealed and has become final. Section 410.169.

The claimant appeals the hearing officer's determinations on the SIBs issues, asserting that she has complied with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right upper extremity (UE) injury on _____. The claimant returned to work at her preinjury job as a cook. It is undisputed that the claimant sustained another injury to her left UE on _____. The parties stipulated that the qualifying period for the fourth quarter was from May 24 through August 22, 2001. The hearing officer's determination that the claimant's unemployment was a direct result of the "compensable impairment" has not been challenged.

Section 408.142(a) and Rule 130.102 set out the statutory and regulatory requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) through a total inability to work as set out in Rule 130.102(d)(4). Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer found that the claimant had some ability to work and that the "narrative reports" offered by the claimant do not specifically explain how the injury causes a total inability to work.

The claimant, in her appeal, and the self-insured, in its response, refer to a report dated December 10, 2001, from the treating doctor. The claimant asserts the report is a narrative that "clearly satisfied" the requirement of Rule 130.102(d)(4) while the self-

insured, quoting the rule, asserts that it fails to explain why the compensable injury itself (to the exclusion of the _____ left UE injury) prevents the claimant from working. The treating doctor's report references both the left and right UE injuries and states the right is the more serious and is "chronic and severe." The doctor's explanation of no ability to work is that the "right [UE] injury [is] due to severe unremitting pain and the fact that any job [the claimant] took would present a very real danger of exacerbating her condition." The doctor does not explain why that is so.

The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

CITY ATTORNEY
ADDRESS
CITY, STATE ZIP CODE

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge